UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff.

Civil Action No. 08-CV-3868 (DAB)

v.

MARC J. GABELLI, and BRUCE ALPERT,

NOTICE OF MOTION

Defendants.

DEFENDANT BRUCE ALPERT'S NOTICE OF MOTION TO DISMISS ALL CLAIMS AGAINST HIM IN THE COMPLAINT

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law and declaration of Joshua I. Sherman, dated July 25, 2008, and the Complaint filed by plaintiff on April 24, 2008, defendant Bruce Alpert will move this Court before the Honorable Deborah A. Batts, United States District Judge, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, at such time as the Court shall direct, for an Order dismissing all of the claims of the Complaint made against defendant Bruce Alpert pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure, as well as for such other and further relief that this Court deems just and proper.

Dated: New York, New York July 25, 2008 DECHERT LLP

By: /s/ Kathleen N. Massey
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